

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**D.S., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Federal Way, WA, Employer**

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**Docket No. 17-1657  
Issued: January 4, 2018**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

CHRISTOPHER J. GODFREY, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On July 25, 2017 appellant filed a timely appeal from a June 26, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant met his burden of proof to establish right carpal tunnel syndrome causally related to the accepted factors of his federal employment.

**FACTUAL HISTORY**

On May 3, 2017 appellant, then a 54-year-old mail carrier, filed an occupational disease claim (Form CA-2) alleging that he developed carpal tunnel syndrome as a result of using his right hand all day at work. The claim form did not indicate whether he stopped work.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

In an April 21, 2017 report, Thomas Shaver, a certified physician assistant, noted that appellant sought medical treatment for new complaints of right wrist/hand numbness and pain, which he had experienced for the past two months with no recent injury. He noted that appellant worked as a mail carrier and related that approximately 10 years ago he sustained a right wrist injury. Mr. Shaver reviewed appellant's history and conducted an examination. He reported positive Phalen's and carpal tunnel tests. Mr. Shaver diagnosed right carpal tunnel syndrome and right wrist pain.

Appellant underwent an electromyography (EMG) and a nerve conduction velocity (NCV) study by Dr. John Chapin, a Board-certified psychiatrist and neurologist. In an April 28, 2017 report, Dr. Chapin noted an abnormal study. He reported median neuropathy at appellant's right wrist consistent with carpal tunnel syndrome and mild ulnar neuropathy present at the right elbow.

In a May 3, 2017 report, Dr. Scott B. Hutson, a Board-certified orthopedic surgeon, indicated that appellant had not improved since he was last seen on April 21, 2017. He noted that appellant occasionally wore a brace during the day, which helped to decrease his symptoms. Dr. Hutson reported that appellant was highly symptomatic and had positive NCV studies. He reviewed appellant's history and provided findings on examination. Dr. Hutson diagnosed right carpal tunnel syndrome.

Dr. Hutson further related in a May 4, 2017 attending physician's report (Form CA-20) that appellant was a mail carrier who complained of numbness, tingling, and pain in his right hand. He checked a box marked "No" indicating that appellant did not have a history of preexisting injury or disease. Dr. Hutson reported findings of right carpal tunnel syndrome. He checked a box marked "Yes" indicating that appellant's condition was caused or aggravated by an employment activity. Dr. Hutson noted that he had attached a chart note and that appellant was restricted from work at that time.

In a May 4, 2017 chart note, Dr. Hutson indicated that appellant complained of having trouble with his right wrist for a while and that around March 1, 2017 his right wrist started going numb while sleeping. He related that an April 28, 2017 NCV study showed abnormal findings. Dr. Hutson diagnosed right wrist pain and right carpal tunnel syndrome. He checked a box marked "No" indicating that appellant had not been treated for a similar condition and did not have preexisting impairment to the injured area. Dr. Hutson recommended right carpal tunnel release surgery.

Appellant explained in a May 16, 2017 statement that, on or around March 1, 2017, he began to experience numbness in his right hand at night. He sought medical treatment from his treating physician and began to use an arm brace. Appellant indicated that he saw a specialist who diagnosed carpal tunnel syndrome and informed him that it was caused by using his right hand to perform repetitive tasks, like the duties he performed at work. Appellant noted that approximately 8 to 10 years ago, he had a previously accepted claim for a right hand injury.

By letter dated May 18, 2017, OWCP advised appellant that the evidence submitted was insufficient to establish an occupational disease claim. It requested that he respond to an attached development questionnaire in order to substantiate the factual element of his claim and submit additional medical evidence to establish a diagnosed condition causally related to his

employment. Appellant was afforded 30 days to submit the additional information. A similar letter was sent to the employing establishment.

On May 23, 2017 appellant responded to OWCP's development questionnaire. He stated that he cased mail for an average of one and a half hours a day, started his vehicle about 50 times a day, open and shut a sliding vehicle door all day long, open and shut mailboxes six hours a day, and fingered through 750 to 2,000 pieces of mail a day all with his right hand for the past 25 years. Appellant noted that he worked 5 days a week, 8 hours a day for 25 years. He indicated that his hobbies and activities outside of his federal employment included hiking, bicycle riding, motorcycle riding, and fishing. Appellant related that he used his computer to pay bills and buy products when needed. He further explained that he started to experience numbness in his right hand at night beginning on or around March 1, 2017. Appellant indicated that it woke him up approximately three times per night. One night his hand and part of his arm "felt dead," which was when he sought medical treatment. Appellant reported that he began wearing a wrist brace, which helped a little. He noted that approximately 8 to 10 years ago he had a previously accepted claim for his right hand.

By decision dated June 26, 2017, OWCP accepted the alleged employment factors and that appellant had been diagnosed with right carpal tunnel syndrome. It denied his claim, however, because the medical evidence of record failed to establish that his diagnosed carpal tunnel condition was causally related to the accepted factors of his federal employment.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence<sup>3</sup> including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.<sup>4</sup> In an occupational disease claim, appellant's burden requires submission of the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>5</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>6</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, must be

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<sup>2</sup> *Supra* note 1.

<sup>3</sup> *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

<sup>4</sup> *M.M.*, Docket No. 08-1510 (issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>5</sup> *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

<sup>6</sup> *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *D.I.*, 59 ECAB 158 (2007).

one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.<sup>7</sup>

### ANALYSIS

Appellant has alleged that he developed right wrist carpal tunnel syndrome as a result of his federal employment duties. OWCP accepted his employment factors as factual and that he had been diagnosed with right carpal tunnel syndrome. However, it denied appellant's claim because the medical evidence of record failed to establish causal relationship between his diagnosed medical condition and the accepted factors of his federal employment.

The Board finds that appellant has not met his burden of proof to establish that his right wrist carpal tunnel syndrome was causally related to the accepted factors of his federal employment.

In support of his claim, appellant submitted a series of notes and reports by Dr. Hutson dated May 3 to 4, 2017. Dr. Hutson related that appellant worked as a mail carrier and complained of numbness, tingling, and pain in his right hand. He indicated that an April 28, 2017 NCV study had abnormal findings. Dr. Hutson reported findings and diagnosis of right carpal tunnel syndrome. He checked a box marked "yes" indicating that appellant's condition was caused or aggravated by an employment activity. The Board has held, however, that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.<sup>8</sup> Accordingly, Dr. Hutson's reports are insufficient to establish appellant's claim.

Dr. Chapin's April 28, 2017 EMG/NCV study report is likewise insufficient to establish causal relationship. The Board has held that reports of diagnostic tests are of limited probative value as they fail to provide an opinion on the causal relationship between appellant's employment duties and the diagnosed condition. For this reason, this evidence is insufficient to meet his burden of proof.<sup>9</sup>

Appellant also received treatment from Mr. Shaver, a certified physician assistant, who noted a diagnosis of right carpal tunnel syndrome in an April 21, 2017 report. His report is of no probative value, however, because physician assistants are not considered "physicians" as defined under FECA.<sup>10</sup>

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<sup>7</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

<sup>8</sup> *D.D.*, 57 ECAB 734, 738 (2006); *Deborah L. Beatty*, 54 ECAB 340 (2003).

<sup>9</sup> *See A.B.*, Docket No. 17-0301 (issued May 19, 2017).

<sup>10</sup> 5 U.S.C. § 8102(2) of FECA provides that the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.404; *Roy L. Humphrey*, 57 ECAB 238 (2005). *See also D.B.*, Docket No. 17-0448 (issued October 12, 2017) wherein the Board held that reports from physician assistants are not considered medical evidence as these practitioners are not physicians under FECA.

Causal relationship is a medical question that must be established by probative medical opinion from a physician.<sup>11</sup> The mere fact that work activities may produce symptoms revelatory of an underlying condition does not raise an inference of an employment relation.<sup>12</sup> Such a relationship must be shown by rationalized medical evidence of causal relationship based upon a specific and accurate history of employment conditions which are alleged to have caused or exacerbated a disabling condition.<sup>13</sup> As appellant has not provided such rationalized medical evidence in this case, he has not met his burden of proof to establish his claim.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish right carpal tunnel syndrome causally related to the accepted factors of his federal employment.

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<sup>11</sup> W.W., Docket No. 09-1619 (June 2010); *David Apgar*, 57 ECAB 137 (2005).

<sup>12</sup> See *P.J.*, Docket No. 17-0570 (issued October 26, 2017).

<sup>13</sup> *Patricia J. Bolleter*, 40 ECAB 373 (1988).

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 26, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 4, 2018  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board